



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MAP/166038

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed May 03, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Disability Determination Bureau in regard to Medical Assistance, a hearing was held on August 04, 2015, at Appleton, Wisconsin.

The issue for determination is whether the Division of Hearings and Appeals has jurisdiction when the petitioner failed to file a request for reconsideration with the Disability Determination Bureau.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: No Appearance  
Disability Determination Bureau  
722 Williamson St.  
Madison, WI 53703

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On April 10, 2014 the agency sent the petitioner a notice stating that she did not qualify for BadgerCare Plus (BCP) effective May 1, 2014 because she was over the income limit.
3. The petitioner later applied for health insurance through the Medicaid Purchase Plan (MAPP).

4. In order to be eligible for MAPP benefits, a person must be found disabled by the Disability Determination Bureau.
5. On January 20, 2015 the Disability Determination Bureau sent the petitioner a notice stating that they had determined that the petitioner did not qualify for the Medicaid Purchase Plan because they found that she was not disabled. The notice went on to state that the petitioner had 45 days to request reconsideration/hearing. The notice provided the address of the Disability Determination Bureau (DDB), and explained that the DDB had to receive the request within 45 days of the date of the letter.
6. The petitioner never sent a reconsideration/hearing request to the DDB.
7. On April 27, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing. In her request, she states that she "feel[s] [she] is still disabled." Attached to the petitioner's request for fair hearing is a notice of decision dated September 26, 2014. That notice states that the petitioner had provided the required proof to the agency for her MAPP application. There was another notice from February 9, 2015, however, that notice did not apply to the petitioner's healthcare coverage as it relates to a disability status.

### **DISCUSSION**

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA must be filed within 45 days of the date of the action. Wis. Stat. § 49.45(5) and § 49.21(1). A negative action can be the denial of an application or the reduction or termination of an ongoing case.

In this case the DDB sent the petitioner a notice that they denied her MAPP application on January 20, 2015. The petitioner filed a request for fair hearing on April 27, 2015. In addition, the petitioner never filed a request for reconsideration/hearing with the DDB. In the notice from the DDB, they enclosed a business reply envelope with their address, which the petitioner never timely returned. In this type of the case, the petitioner must first apply for reconsideration, the DDB must review the file again, and if it is still a denial, the file will be forwarded to the Division of Hearings and Appeals. This never happened as the petitioner never requested reconsideration. Thus, the petitioner's request is untimely, and not submitted to the correct agency, and no jurisdiction exists for considering the merits of the case.

### **CONCLUSIONS OF LAW**

There is no jurisdiction as the appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 6th day of August, 2015

---

\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 6, 2015.

Outagamie County Department of Human Services  
Division of Health Care Access and Accountability